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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/653,350	09/02/2003	Eun Jung Lee	A35967 073226.0119	3503

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EXAMINER

SEHARASEYON, JEGATHEESAN

ART UNIT	PAPER NUMBER
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1647

DATE MAILED: 06/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-2 and 6-9, are drawn to a interferon alpha, classified in class 530, subclass 350.
- II. Claims 3-5 and 10, drawn to a nucleic acid encoding the protein, expression vector, and method of making, classified in class 435, subclass 69.1.

The inventions are distinct, each from the other, for the following reasons:

The polypeptide of Group I and the polynucleotide of Group II are patentably distinct for the following reasons: polypeptides, which are composed of amino acids, and polynucleotides, which are composed of purine and pyrimidine units, are structurally distinct molecules; any relationship between a polypeptide and polynucleotide is dependent upon the information provided by the nucleic acid sequence open reading frame as it corresponds to the primary amino acid sequence of the encoded polypeptide. Furthermore, searching the inventions of Groups I and II together would impose a serious search burden. In the instant case, the search of the polypeptides and the polynucleotides is not coextensive. The inventions of Groups I and II have a separate status in the art as shown by their different classifications. In cases such as this one where descriptive sequence information is provided, the sequences are searched in appropriate databases. There is also search burden in the non-patent

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literature. Prior to the concomitant isolation and expression of the sequence of interest there may be journal articles devoted solely to polypeptides, which would not have described the polynucleotide. Similarly, there may have been "classical" genetics papers, which had no knowledge of the polypeptide, but spoke to the gene. Searching, therefore, is not coextensive. As such, it would be burdensome to search the inventions of Groups I and II.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

2. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jegatheesan Seharaseyon, Ph.D whose telephone number is 571-272-0892. The examiner can normally be reached on M-F: 8:30-5:00. If

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attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brenda Brumback can be reached on 571-272-0961. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JS 06/06

~~CHRISTINE J. SAOUD~~
CHRISTINE J. SAOUD
PRIMARY EXAMINER
Christine J. Saoud